Quid Novi

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How to Survive a Florida Vacation

Greg MacKenzie MBA I / LLB II

Unlike our cousins to the south, Canadians pride themselves on being culturally sensitive tourists. As hundreds of McGill students return from for their annual Florida vacation, it's important for us to reflect on the dos and don'ts of life in the Sunshine State. Above all, Canadian tourists should respect Florida's most sacred cultural traditions: beaching, eating, and the occasional tourist shooting.

Beaching

Upon arriving in Florida, Canadians must find themselves a beach. The coastline of this god-forsaken land is its sole redeeming feature. Parched lawns and lifeless flowerbeds give Florida's interior the look and feel of a nuclear war zone. Not surprisingly, everyone in Florida heads for the beach. And I mean everyone.

If European beaches are know for their lack of tops, Florida beaches should be known for their lack of taste. Only in Florida will you find seventy year-old women oozing out of bikinis and plumber-bummed men in plaid swimming trunks. Twentysomething beach-seekers can avoid generational flare-ups by honouring Florida's coastal protocol. Snowbirds take up most of the beach and don't take kindly to youngsters crashing their turf. If you insist on occupying beachspace, please dress accordingly and stick to designated non-pensioner tanning areas.

Eating

If you're interested in art, theatre or nightlife, Florida is not for you. But if you're looking for food, look no further - Welcome to Club Fed. While Canadians starve themselves to stay thin, Florida throws its arms around the calorically-challenged. At every corner you'll find early-bird-specials for those who can't wait, buffet dining for the value shopper and 24 hour fast food for the late-night binge.

As a result of this perpetual gorging, everyone moves very slowly in Florida. People walk slowly, talk slowly and even drive slowly. Since everyone is either digesting their last meal, or preparing for the next one, no one wastes energy on between-meal activities.

Not surprisingly, eating dominates daily conversation. Forget about sports, business or the weather. If you want to be the life of this party, you'll need a food story. Tell 'em where you ate last night, how big the portions were and how well you slept afterwards. They'll love ya.

Occasional Tourist Shootings

While Florida gives you the chance to get tanned and fed, it also gives you a chance to get shot. In the spirit of equality, Americans gives citizens and tourists alike the opportunity to be killed by a firearm. The risks are especially high for Canadians motorists. To avoid roadside slayings, Canadians are advised to steer clear of gas stations, rest areas and bumper-to-bumper traffic. Street-smart pedestrians will avoid walking in high traffic areas, which carries the risk of a drive-by shooting. For maximum safety, Canadians are encouraged to wear bicycle helmets at all times (they're great for deflecting head shots).

If protective headgear isn't your style, you can always try to look "American". Canadian motorists will need a NRA bumper sticker and should prominently display a Confederate flag (this could be substituted with "Buchanan for President" paraphernalia). Don't let your dress give you away either. Men should sport tight polo shirts, Vuarnets and penny loafers. Women are advised to wear loud, floral blouses, acid wash jeans and big, big hair. When discussing international politics, speak loudly and refer to American as the "U-S-of-A".

For those who think that Canadians blend smoothly into the American melting pot , think again. Life is not so simple for Canucks in the Sunshine State. A trip to Florida is no day at the beach - it's a full-fledged cultural exchange. So next time you go south, remember to be culturally sensitive: Head straight for the beach, get ready to eat and keep your helmet fastened.

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Announcements / Annonces

Notes from the Office of Undergraduate Studies:

Attention ALL FIRST YEAR STUDENTS: upon successful completion of your first year of study, you will be admitted automatically to the National Programme. If you wish to opt out of the National Programme, come to the OUS and fill out the necessary form.

If you have a first-term SUPPLEMENTAL OR DEFERRED EXAMINATION to write in August and have not yet done anything about it, pick up an application form from the OUS and return it before April examinations begin. The cost is $10.00 per examination.

GRADUATING STUDENTS who have SUPPLEMENTAL OR DEFERRED EXAMINATIONS to write in order to graduate in June 1996 should complete an application form and return it to the OUS, clearly marked "Graduating Student". The cost is $10.00 per examination. Supplementals and Deferreds are generally scheduled for the week following the end of the April examination period.

1996 POST GRADUATE SCHOLARSHIPS applications (Botsford Busteed, John W. Cooke K.C. Prize, Macdonald Travelling, Thomas Shearer Stewart Travelling, Spiegel Sohmer Taxation) and 1996 PRIZES & SCHOLARSHIPS APPLICATIONS (essays, extra-curricular activities, improvement & progress and Anglophones showing proficiency in French) are now available from the OUS.

If you have not yet picked up your SECOND TERM EXAMINATION NUMBER, come to the Reception Desk, OUS for it between 9:00 am - 4:00 pm.

* * *

The International Law Society, Forum National, the Faculty of Business and the Ibero-American Society present :

International Career Workshop Day!

When: Saturday, March 16th, 1996
Where: Moot Court, Faculty of Law
Itinerary:
1:00-2:30 : Starting Your International Career and Your International IQ
2:30-3:00 : Working in the International Cvil Service
3:00-4:30 : Finding That International Job: Research, Resumés, Interviews.
Speakers:
- Mr. Jean-Marc Hachey, Intercultural Systems , author of *The Canadian Guide to Working and Living Overseas* .
- Dr. Michael Milde, Director, International Civil Aviation Organization.

* * *

Annie Macdonald Langstaff Workshop

On Friday, March 15th at 11:30 in Room 202, Professor Margaret McCallum, Faculty of Law, University of New Brunswick, will be speaking on "The Sacred Rights of Property".

* * *

ATTENTION INTRAMURAL SPORTS TEAMS

If you and your team would like to be immortalized in the 1996 yearbook (What an honour!), photo shoots can be arranged by contacting Alwynn (email gillet_a) or submitting photos to the Res Ipsa Loquitur box in the LSA office.

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Losing My Freedom to Tell Racist Jokes Is a Sacrifice I'm Willing to Make

Sarah Lugtig, LLB III

In response to the Quid's Editorial Policy as described in the last issue and the comments about political correctness which accompany it I have a few honest and hopefully tactful comments to make. Let me begin by saying that I for one truly appreciate the hard work that goes into the Quid every week and the reluctance to interfere with students' opinions and perspectives. This is after all the students' paper. However, I might point out that as such it belongs to all students. If some of the paper's material offends certain students, particularly those who belong to groups which are targeted for discrimination and oppression in our society, the matter warrants serious concern and evaluation.

This issue is very instructive as it shows us how the legal discussions of freedom of expression and discrimination play out in our everyday lives. When these constructs receive attention by the courts, typically a balancing and contextual approach is used, one which attempts to understand the concerns of all affected. These deliberations are not seen simply as free debate, but as decisions that have real effects on people's lives. Unfortunately, the editorial policy seems only concerned with a one-sided debate, the freedom of expression one. I would like to provide the other side.

First of all, the editor claims that we should be reminded that all is not "right with the world". This was presented as justification for the publication of a sexist and racist valentine sent to a Black female law student. Well, I wonder if she feels the same way. I know I have no illusions that all is right with the world. I would bet that many of us who experience discrimination in our day to day lives do not feel a need to be reminded. Rather we dream of a day where we do not have to be reminded, at least in environments where are supposed to feel welcome and rightfully included. For those of us who feel a need to be educated about racism or other forms of discrimination I believe there are more effective ways of educating ourselves, ones which do not depend on maintaining or supporting a racist environment.

Second, the editor believes that such an editorial policy is necessary to ensure free expression and opinions, especially those which may disagree with the majority. This is reminiscent of the "chilling effect" on expression which some jurists cite as a reason to limit hate speech prohibitions. Personally I think one could work out a policy which addressed this concern and yet protected targeted students from clearly racist, sexist or otherwise discriminatory humour or comment. In other words, I would have faith in an editorial committee to determine when such expressions are made in an attempt to express an idea or opinion and when they are meant to ridicule or denigrate people on the basis of gender, race, sexual orientation, disability or other such characteristic.

This brings me to my final point, which is the process and source of the editorial policy. Surely, having a policy which derives solely from the current editor's opinion and discretion is a problem when one is concerned about *both* freedom of expression *and* discrimination. I advocate a policy which reserves the right to exclude material which ridicules or demeans individuals or groups on the basis of their gender, race or ethnic origin, sexual orientation, disability and, potentially, other grounds protected in the Quebec Charter. Further the policy should stipulate that this discretion be exercised by a committee which records the outcome of decisions. When a submission is anonymous this will just be a risk the author takes. If it is a signed work, the editor should approach the author and attempt to remove the offensive material.

Personally, I would be willing to sacrifice my right to submit offensive valentines in the February 14th Quid to promote an atmosphere where the various members of targeted groups in the faculty can continue to feel that it is *their* paper and *their* faculty. In the context of our student community such a policy would go much further towards the free exchange of ideas and opinions than daily reminders of racism, sexism, homophobia, and discrimination against people with disabilities, among others. The line *will* be drawn somewhere by the Editorial staff of the Quid. Let's ensure that it is drawn in a way which respects all of us equally!

TOP 10

By Steven Leitman, BCL II

Top Ten Reasons to go to Skit Nite:

10. Articling jobs for the first 100 people to show up.
9. Come laugh at your profs!
8. Special guest appearance by David Lee, breaking in the Miss Saigon helicopter.
7. Because legality really DOES bite.
6. If you don't show up, we'll find you, and we'll tickle you.
5. Picture this: Professor Klinck body surfing in the mosh pit.
4. Now that the A-Team is off the air, there's no reason to stay home.
3. Cheap beer.
2. During the intermission, Jody Berkes and Associate Dean Jutras
have agreed to duke it out.
1. Two words: nude scenes.

A l'eau

Vincent de Grandpré, Nat IV

Un article paru dans le *Quid* la semaine derniere m'incite à exprimer une opinion personnelle longtemps refoulée: le règlement qui interdit la consommation de toute nourriture ou breuvage à la bibliothèque devrait être changé!

Sans doute avez-vous remarqué comme moi ces quelques indices que l'administration de la bibliothèque est moins disposée à tolérer la violation systématique du règlement. Si vous ne saviez pas qu'il est interdit de boire ou de manger à la bibliothèque, la multiplication lapinesque des affiches devrait maintenant vous en convaincre!

En somme, je comprends fort bien l'exaspération du personnel de la bibliothèque. Le concert d'ouverture de canettes et de déballage de pellicules plastiques à l'heure du lunch est quasi-comique. Les violations du règlement sont si fréquentes et si sonores que je m'attends à bientôt surprendre un étudiant assis devant un poêle *Coleman*, occupé à réchauffer un lunch... Sans compter que l'administration de la bibliothèque nous assure que nous risquons l'invasion de parasites... Mythe ou réalité, il serait bien triste de dilapider notre maigre collection. En revanche, la prohibition absolue ne me semble pas plus raisonnable. Je crois que les bouteilles d'eau devraient être tolérées à la bibliothèque.

Nous passons nos grandes journées à la faculté et à la bibliothèque. Plusieurs d'entre nous y arrivent tôt le matin et n'en repartent qu'en soirée. Or, la science, i.e. le guide alimentaire canadien, connu par des générations d'écoliers sous la forme du soleil des groupes alimentaires (ha! ha! ha!), nous recommande de boire huit verres d'eau par jour. Si vous êtes grippés ou enrhumés (tout l'hiver, comme moi), et *kiasu* (donc à la faculté malgré tout, comme moi), il vous faut certainement consommer vos huit verres d'eau par jour. Or les règlements de la faculté édictent de plus que boire et manger est interdit dans les salles de classe. L'application stricte des règlements décimerait (ou endormirait?) certainement la moitié du corps étudiant (dont moi). Il y a bien sûr les fontaines (les abreuvoirs) à tous les étages sauf au premier. Ce n'est cependant pas sans sourire en coin que je vous conseillerais de boire deux litres d'eau du 5e étage.

Trêve de pleurnichage, je comprends que l'administration veuille appliquer le règlement. Je l'y encourage sincèrement. Je suis exaspéré des excès des étudiants qui cochonnent les bureaux, à la bibliothèque ou en classe. Je suis prêt à croire que la présence de nourriture à la bibliothèque menace la collection et endommage les livres (quelle est l'ampleur des dommages?). J'imagine cependant que les étudiants sauront toujours endommager les livres en y soulignant (argh!) ou en lisant chez eux à table ou sous la douche. A moins que plane la menace d'une invasion de grenouilles, je suggère que les bouteilles d'eau soient exclues de l'application du règlement interdisant de boire et de manger à la bibliothèque de droit.

McGill Delegation Travels to Russia

Peter Sahlas, LLB III

A four-member delegation traveled to Russia in February to continue work on a Canadian government-sponsored legal development project.

We are involved in two policy development projects. The first is an academic project on legal education in Russia. The second is a government consultation project. Our main partners include the European University at St. Petersburg, the St. Petersburg State University Faculty of Law, the Russian Federation Ministry of Justice and the Russian Federation State Antitrust Committee. We are also being assisted by Canada's diplomatic missions in Russia, three prominent international law firms and the United States Agency for International Development Rule of Law Program.

The delegation members held a series of meetings and workshops with the various government, academic and private sector partners, conducted research in both St. Petersburg and Moscow, continued efforts to expand the funding base and planned the work schedule for this summer and next winter.

I would like to thank delegation members McShane Jones (LL.B. I), Elena Reshetnikova (B.C.L. II) and Andrei Vorobiev (Concordia M.B.A.) for their professionalism, perseverance and hard work. Together they made this trip a strong success.

The next phase of the project will be completed this May and June, when field researchers prepare the final drafts of reports to be presented at a conference in Russia next winter. Fifteen impressive applications for these summer research positions were received from across Canada and the United States. Final interviews for the two positions will take place this month.

FACULTY OF LAW MCGILL INTERAMICUS

ENCOUNTERS ON HUMAN RIGHTS LECTURE SERIES

PROFESSOR JOHN WITTE, JR.

Director, Law and Religion Program
Emory University Law School, Atlanta,
Jonas Robitscher Professor of Law and Ethics

RELIGION, LAW AND HUMAN RIGHTS

WEDNESDAY, MARCH 13TH, 1996 12.30 pm

Moot Court, McGill Faculty of Law
3644 Peel Street

JODYTALK

In the three and a half years of writing this column I have been criticized on many occasions and from many directions. I remember taking on the sacred cow of parallel citation in my second year. I wrote two articles back then. The first criticized the process as a meaningless academic exercise. The second criticized it as a meaningless waste of time. (I leave it up to you to discern if there is a difference). Professor Gary Bell wrote a carefully considered response to both my articles maintaining that parallel citation was necessary and urging us to use *Quicklaw* to do it (to the tune of $150 an hour in the real world, but free while youÕre still in law school). In my third year, when I proposed that we end classes a week early to give students time to study before exams, Associate Dean Jutras (the same one I called a fart, but more on that later) wrote a humorous response in the *Quid Novi*.

However, the March 4th edition of the *Quid Novi* marks the first time that I felt need to respond to my critics within the confines of Jodytalk. Usually I just write a letter to the editor, but hell it's my column (at least for the next month) and I can do what I want. I knew exactly what I was saying about Associate Dean Jutras, and thought that it was in perfectly fine taste. When you accept the job of Associate Dean you have to be able to accept a little criticism and a lot of good natured ribbing.

Furthermore, when you look objectively at what I wrote, it may be a little personal, but it is far from in poor taste. First and foremost, in the line preceding the one where I call Associate Dean Jutras a fart, I mention that I know that he is bright and smart. Can you think of anything else that rhymes with smart better than fart? Furthermore, how can any action that provides relief for so many be that bad? Second, Associate Dean Jutras is a big boy. He is perfectly capable of taking some good natured kidding and what's more, which totally shocked the hell out of me when I first discovered it, he has a sense of humor (see above reference). He used my "fart" comment to provide a framework for discussion of libel in his Obs. II class. (I was also heartened to hear that many second year students vigorously defended me. Thanks to all of you). I spoke with one student who said that the class, "Was a nice break from the ordinary subject matter, and it was the most entertaining lecture that I attended this year." Third, though this will probably get me into more trouble, I think that saying "those that can't do teach," is in much poorer taste than calling someone a fart.

If all people were saying was that my comments were in poor taste, I could live with it. What angers me however, is the way that my comments have been lumped in with that of, "Nubian love slaves stolen by pirates." The two are of a completely different nature both in kind and degree. First, Associate Dean Jutras sits squarely within a position of power within the Faculty. I too come from a position of privilege in society, however, vis-à-vis Associate Dean Jutras I am in a relative position of powerlessness. (If I was not, I'd be taking Trial Advocacy right now.) On the other hand, the author of the offensive valentine most likely comes from the position of the colonizer (I can't be sure since the author didn't sign the piece, but more on that later) and through the writing has recolonized Black women in the Faculty. This may have been unintentional, as the author most likely has never heard of feminist, critical race or postmodern theory. However, I do not do any of the theories justice, and Melissa Redmond's "Response to Blackbeard"(*Quid Novi*, Volume XVI, No. 20, March 4, 1996) is more eloquent than anything that I could write, so I suggest that you read it.

Totally aside from the anger I feel about being lumped in with the content of that message, I am angered by being lumped in with the medium. The above author did not have the guts to sign a name to the offending piece. I have never written an anonymous piece for the *Quid Novi* (actually with the exception of the valentine's day issue *The Quid* will not accept anonymous submissions). There is not one person within this Faculty that hasn't complained to me bitterly about one thing or another. Yet when I suggest that they do something about it all too often the response is, "I don't want to rock the boat." Some of you recognize the difficulty in trying to write for the *Quid* each week (Thanks Sue!). The task is made even more difficult because of the strong position that I take on students' rights in the Faculty.

For the past three and a half years I have been constantly rocking the boat. I have always stood behind what I said and I have invited others to disagree with me. I've had discussions with various Faculty members about the unfairness of the grading system, their criticisms of the Legal Clinic Course, and any other suggestions that I have made. Though they don't always agree with me, I hope that they respect me for making my voice heard. I have also been pretty liberal with my criticism of professors. It's no secret when I feel that a professor is not doing his or her job, yet there are some who will only criticize behind the shield of anonymity.

One professor has described my approach as the "Atom Bomb Approach". To be fair, he was referring to my suggestion that we use the notwithstanding clause to remove the defense of drunkenness akin to automatism. I recognize that most of my comments have danced pretty close to the line, and that from time to time I may have crossed it. The only defense that I can offer for my actions is that the extreme is often the only way to make an

(Continued on page 7)

(Continued from page 6)

impression. On the other hand, I abhor the implication that anything that I have ever written is even remotely as insensitive and offensive as the Blackbeard Valentine. Res Ipsa Loquitur.

Jody Berkes is a fourth year law student who enjoys line dancing in his spare time. His column appears in the Quid Novi.

Dear Jody,

In last week's editorial, I did not mean to imply that your comments were as offensive or insensitive as Blackbeard's. They were simply used as an example of the Quid's choice to publish an article even if it might be considered offensive or insulting. I can see how that implication might be understood and I shouldn't have lumped you in the same category as Blackbeard. I apologize for that.

Moving on: I'm glad of the reaction my editorial has received. Please read Sarah Lugtig's article at page 3. For the record, I would draw the line at "hate".

Emmanuel Castiel, Editor-in-chief

Les Paumés

Note du rédacteur: Le Quid Novi a comme politique de ne pas publier des articles anonymes. Cependant, une exception sera faite pour l'article suivant.Lisez-le est la raison sera claire.

Réponse à Jean-Philippe Daoust et à son commentaire sur le texte *Le Juge jugé* de Myriam Bohémier.

Monsieur,

Tout d'abord, ne m'en voulez pas de prendre une forme anonyme. Je n'ai pas honte de ce que je pense. Je dévoile cependant des choses personnelles qui, bien qu'elles soient des réalités pour trop de personnes, demeurent des réalités avec lesquelles je ne veux pas être associée dans le Faculté.

J'ai été profondément choquée et blessée par votre réponse à Myriam. Je ne tenterai pas ici de défendre son texte. Ce que je trouve grave, ce sont vos propos à vous et cela va plus loin que le texte de Myriam.

Je dois l'avouer, je ne suis pas féministe et je n'en ai jamais eu la prétention. J'aurais pourtant les meilleures raisons de l'être. La violence faite aux femmes n'est pas un sujet pour les lecteurs du Quid dites-vous? Devrais-je être rassurée par la définition que vous faites de votre féminisme et du fait que vos confrères pensent comme vous? J'espère que vous n'avez pas trop de confrères sympathisants à cette faculté Monsieur.

Vous dites que Myriam fait le portrait de la femme en tant qu'éternelle victime. Décrire les souffrances vécues par certaines personnes ne veut pas dire que celle qui fait cette description se victimise et s'apitoie sur son sort.

Vous semblez vouloir que l'on construise en laissant braire les paumés, puisque la plupart des gens normaux ne pensent pas comme eux. Je vais vous dire ce que cela donne de laisser braire les paumés.

Un jour, j'ai moi-même laissé braire un paumé. Ce collègue de travail m'avait tout pris, jusqu'au respect de moi-même et à mon amour-propre. J'ai laissé braire le paumé. Après avoir porté plainte, j'ai retiré cette plainte de peur que ma mère n'apprenne ce qui m'était arrivé. A 18 ans, j'ai laissé partir le paumé. Il est en effet reparti pour sa France natale où il a violé et poignardé une petite fille de 10 ans. Cette fois, le paumé va braire en prison. J'ai combattu auprès de cette enfance blessée et de ses parents, me sentant plus coupable que le paumé.

Comme vous, j'avais choisi de croire qu'il s'agissait d'un cas isolé. J'ai choisi de traiter le paumé « d'attardé », « d'homme en état de débilité avancée », de « trou du cul ».

Je pressens déjà que vous allez me répondre que mon cas est différent, puisque le paumé a fait plus que de trop parler et m'a agressée de ses gestes. En quoi est-ce différent? Est-ce le sang, la douleur et la blessure, celle qui reste, qui font la différence? Non, ce qui fait la différence, ce sont des personnes comme vous qui voient dans toute contestation le cri de guerre d'une femme victime.

Vous dites, Monsieur, que l'on doit laisser braire le paumé, que les propos du Juge Bienvenue sont ceux d'un épais qui n'a pas su se la fermer. On doit, selon vous, laisser braire le paumé et s'affirmer. Je vous dis qu'il faut s'affirmer et faire taire le paumé. Je ne cherche pas votre pitié pour ce dont j'ai été victime: ce serait en effet être victime. Trop longtemps, j'ai laissé braire les paumés pour seulement tenter de m'affirmer. Cette démarche est égoïste et me laisse maintenant avec la culpabilité d'une blessure affligée à une fillette de 10 ans. Si au lieu de parler de l'ablation du clitoris Myriam aurait raconté mon histoire, ce serait se victimiser, selon vous? Je refuse depuis 2 ans d'être une victime. La victime comme vous dites, se tient debout et elle avance; elle s'affirme et ne laisse pas un féministe comme vous lui dire qu'elle s'y prend mal.

Pour ce qui est, Monsieur, de vos idées constructives, je les attends toujours. Traiter le Juge Bienvenue de tous les noms possibles ne fera pas avancer les choses. En attendant, voici une suggestion: faites taire le paumé.

McGill Students Attend National Constitutional Conference in Ottawa

Patrick Shea, BCL I

On Wednesday, 28 February, five students from the law faculty traveled to Ottawa to attend the Negotiations for a New Canadian Constitution, a three-day conference organized by a group of students from the University of Ottawa Law School. The objective of the event was to assemble law students from across the country in an informal setting to negotiate and draft amendments to the Constitution and to present them as a package to the Federal Government.

The five students who represented McGill in Ottawa -- Stéphane Duranleau (BCL IV), Hugo Cyr (BCL III), Charles Morgan (BCL III), Jay Zakaib (BCL III), and Patrick Shea (BCL I) -- along with Gayle Noble (LL.B. III), Fred Headon (LL.B. IV), and Stéphane Perrault (Boulton Fellow) met on several occasions during the weeks leading up the conference to prepare a common agenda. Although we were instructed to draft amendments irregardless of the present political realities and the existing amending formulas, we all agreed that it would be best to work within the exact opposite parameters. Given the current national unity crisis and the ever-present spectre of the previous constitutional rounds that failed in 1990 and 1992, we decided that our proposals should respond to and reflect the indisputable urgency of the unity question and the realm of the possible. Despite the fact that our individual political leanings mirrored the wide spectrum of political debate in Canada on both ideological and "Quebec" issues, we were successfully able to forge a group consensus. Our priorities were as follows: 1) adopt a "recognition clause" that would politically enable the government of Quebec to sign the 1982 Constitution, 2) establish stricter guidelines for the use of the federal spending power so as to respond to the demands of provincial governments in Quebec and the West while respecting the public desire for the maintenance of national standards in areas such as health and social welfare, 3) devolve certain powers to the provinces for the purpose of facilitating greater efficiency and harmony between the two levels of government, and 4) defer issues that require unanimous provincial consent to a future round of constitutional talks so as not to "sink" the rest of the constitutional package. We therefore arrived at the conference confident that our proposals represented a consensus that reflected the urgency of the current constitutional impasse while remaining within the parameters of political reality.

Delegates convened in Ottawa on Wednesday from all over the country -- from the University of Victoria to the University of New Brunswick -- including all the law faculties in Quebec except for Laval. In total, there were forty students from thirteen law schools. The afternoon and evening provided an opportunity for the various representatives to get to know each other and to share some preliminary ideas on possible amendments. The conference began in earnest early Thursday morning with a traditional Aboriginal sweetgrass ceremony.

At the urging of the McGill delegation, the first item of business was the adoption of an interpretative recognition clause that would allow Quebec to sign the Constitution. We believed that this was a sine qua non of any future constitutional amendments. Whereas the distinct society clause in Meech and Charlottetown was contested by many Canadians as it implicitly bestowed upon Quebec a "special status", our clause (see text below) seeks to reflect the notion of Canada as a compact of founding peoples while respecting the belief that all provinces are equal. The clause explicitly recognizes Francophone Canadians as a people, and that their distinct language, cultures, and institutions must be preserved and developed within the limits of the Constitution throughout the country. The wording uses the more powerful "people" rather than "distinct society" but does not confer any putative special standing on the government of Quebec. With only a few minor modifications, the conference unanimously and enthusiastically adopted the clause as s. 2 of the *Constitution Act, 1867*.

The next item on the agenda was the issue of Aboriginal rights. Five of the participants were Aboriginal, and they consequently inaugurated the discussion. Whereas all the delegates were in favour of recognizing the inherent right to Aboriginal self-determination, the debate revolved around whether the constitutional amendment should explicitly enumerate the heads of power of Aboriginal governments or rather establish a broader framework for negotiating and implementing self-determination without specifying exact details. The conference ultimately and unanimously opted for the latter solution (see text below), believing that such an arrangement would allow a greater flexibility in implementing self-determination agreements, one that would respond to the diverse needs of the sundry Aboriginal nations and bands throughout the country.

The third issue was the most contentious: the use of the federal spending power. On one hand, there were those -- among them, students from the Université de Sherbrooke and the University of Alberta -- who wanted to essentially prohibit all federal spending in areas of exclusive provincial jurisdiction. On the other hand, other delegates -- especially those from Ontario and the Maritimes as well as those politically left of centre -- feared that such a move would bring an end to Canada's most cherished social programmes, for many a principal source of national identity. Sensitive to these demands (as the ideological polarity of the conference was replicated within our own ranks), the McGill delegation sought to amend the Constitution so as to create an equitable balance between the genuine desire for greater decentralization as voiced by citizens in Quebec and the West and the massive public support for the notion of national standards and objectives found in all regions of the nations. After many hours of intense negotiations, the conference adopted unanimously a modified version of a proposal that the McGill group had submitted. The amendment (see text below) stipulates that the federal government is restricted from spending in areas of exclusive provincial control, with the exception of health, social welfare and the funding of post-secondary education. These three areas were widely considered to cover the most important and popular national

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funding programmes so we protected them from the withdrawal of the federal spending power; moreover, the existing federal standards were deemed to continue. Nevertheless, this amendment gives the provinces a significant say in the modification of existing programmes or the creation of new ones by requiring the consent of seven provinces representing at least fifty percent of the population of the country. Echoing the Meech Lake Accord, the provinces are given the right to opt out of any federal programme with just compensation as long as their substitutes are compatible with national objectives.

The passage of the spending power clause occurred late on Friday afternoon as the conference drew to close. After adopting slight changes to the notwithstanding clause (which would require a two thirds majority in the legislature to pass a resolution and shortened its applicable period to three years), time had run out. We resolved to address Senate reform, the status of the monarchy and the division of powers at a future conference. Nevertheless, we accomplished much in two days of negotiations. The three main proposals that we adopted reflect the urgency of the national unity crisis by recognizing the rights of the Francophone and Aboriginal peoples of Canada, as well as responding to calls for greater decentralization emanating from numerous provincial capitals. At the same time, the proposals do not endow any specific province with the much-maligned notion of special status and are responsive to the continuing support for nationally-funded programmes that are at the heart of a shared Canadian identity.

The participants of the conference are confident that this is a constitutional package that would be acceptable to most citizens of the country. By excluding any issues that require constitutional unanimity (as important as they might, however, be), these proposals could nevertheless be adopted in the event of limited opposition by one or two reluctant premiers, a scenario that sounded the death knell of Meech in 1990. Most importantly, the conference demonstrated that a lasting political consensus among Canadians is possible. After forging an agreement among ourselves in the weeks leading up to the conference and after being instrumental in assuring that, as a conference, we would find a common ground, the five of us who traveled to Ottawa have been reinvigorated by the processes of national dialogue and compromise. I most assuredly speak for my colleagues in stating that the events of last week have given us a renewed (or new...) hope for a lasting constitutional solution to the conundrum of accommodating diverse identities within a single federation.

Recognition Clause -- to be added to the Constitution Act, 1867

2. (1) The Constitution of Canada, including the Canadian Charter of Rights and Freedoms, shall be interpreted in a manner consistent with the recognition that Francophones, in Quebec and elsewhere in Canada, are a people that share a language and that their communities possess distinct cultures, tenets and institutions whose preservation and development within the Canadian Federation must be protected within the limits authorized by the Constitution.
(2) The powers recognized by the Constitution of Canada must be interpreted so as to permit the realization of these objectives in light of Canadian diversity.

Clause de reconnaissance -- ajouté à la Loi constitutionelle de 1867

2. (1) Toute interprétation de la Constitution du Canada, notamment de la Charte canadienne des droits et libertés, doit concorder avec la reconnaisance que les Francophones, au Québec et ailleurs au Canada, constituent un peuple partageant une langue et que leurs communautés possèdent des cultures, des moeurs et des institutions distinctes dont la préservation et l'épanouissement au sein de la Fédération canadienne doivent être assurés dans les limites autorisées par la Constitution.

(2) Les pouvoirs reconnus par la Constitution du Canada doivent être interprétés de manière à permettre la réalisation de ces objectfs en tenant compte du respect de la diversité canadienne.

Rights of the Aboriginal Peoples of Canada -- to replace s. 35 of the Constitution Act, 1982.

35. (1) The inherent right to self-determination within Canada and the existing Aboriginal and treaty rights of the Aboriginal peoples of Canada are hereby affirmed.

(2) The governments of Canada and the provinces undertake to negotiate political and administrative agreements with the individual Aboriginal nations in the implementation of the rights recognized in subsection (1).

(3) All parties undertake to negotiate in good faith.

(4) In this Act, the Aboriginal peoples of Canada include the Indian, Inuit and Métis people of Canada.

(5) For greater certainty in subsection (1) "treaty rights" includes rights that now exist by way of land claims agreements or may be so acquired.

(6) Notwithstanding any provision of this Act, the Aboriginal and treaty rights referred to in subsection (1) are guaranteed equally to male and female persons.

(7) The Aboriginal nations and the governments of Canada and the provinces agree to refrain from submitting the issue of self-determination to the courts for a period of ten years to allow the scope of its application to be determined through the negotiations referred to in subsection (2).

Droits des peuples autochtones du Canada -- à remplacer l'article 35 de la Loi constitutionelle de 1982

35. (1) Le droit inhérent à l'autodétermination au sein du Canada et les droits existants -- ancestraux ou issus de traités -- des peuples autochtones du Canada sont reconnus et confirmés.

(2) Les gouvernements du Canada et des provinces s'engagent à négocier des ententes politiques et administratives avec chacun des peuples de nations autochtones dans la mise en oeuvre des droits reconnus au paragraphe (1).

(3) Les parties s'engagent à négocier de bonne foi.

(4) Dans la présente loi, «peuples autochtones du Canada» s'entend notamment des Indiens, des Inuit et des Métis du Canada.
(5) Il est entendu que sont compris parmi les droits issus de traités, dont il est fait mention au paragraphe (1), les droits existants issus d'accords sur les

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Constitution

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revendications territoriales ou ceux susceptibles d'être ainsi acquis.

(6) Indépendamment de toute autre disposition de la présente loi, les droits -- ancestraux ou issus de traités -- visés au paragraphe (1) sont garantis également aux personnes des deux sexes.

(7) Les peuples autochtones et les gouvernements fédéral et provinciaux s'engagent à s'abstenir de soumettre la question du droit à l'autodétermination devant les tribunaux pour une période de dix ans afin de permettre de définir son application par l'entremise des négociation prévues au paragraphe (2).

Federal Spending Power -- to be added to the Constitution Act, 1867

106A. *(1) The government of Canada is prohibited from financing or co-financing a programme in an area of exclusive provincial jurisdiction as referred to in section 92 with the exception of health care, social welfare and student funding at a post-secondary level.*

(2) The existing federal standards in the areas referred to in subsection (1), namely health care, social welfare and post-secondary education, shall be maintained until such time as an agreement to alter them has been concluded between federal and provincial governments in accordance with subsection (3).

(3) The agreements referred to in subsection (2) and the creation of any additional programmes shall be passed:
(a) by resolution of the Senate and House of Commons; and
(b) by resolution of the legislative assemblies of at least two thirds of the provinces that have, in the aggregate, according to the then latest general census, at least fifty percent of the population of all the provinces.

(4) The government of Canada shall provide just compensation to the government of a province that chooses not to participate in a national programme financed or co-financed by the Federal government, in the areas permitted in subsection (1) if the province applies the programme or an initiative that is compatible with the national objectives.

(5) This section shall be interpreted in accordance with section 36 of the Constitution Act, 1982.

(6) Nothing in this section shall be construed as applying to the CEGEP system in Quebec.

Pouvoir fédéral de dépenser -- *ajouté à la Loi constitutionelle de 1867*

106A (1) Il est interdit au gouvernement du Canada de financer ou de cofinancer tout programme dans un domaine de juridiction provinciale exclusive énumérée à l'article 92, à l'exception des soins de santé, du bien-être social et du financement étudiant au niveau des études post-secondaires.

(2) Les standards fédéraux existant dans les domaines des soins de santé, du bien-être social et du financement étudiant au niveau des études post-secondaires, tel que prévus au paragraphe (1), sont maintenus jusqu'à ce qu'une entente visant leur modification soit conclue entre le gouvernement fédéral et les gouvernements provinciaux en conformité avec les exigences prévues au paragraphe (3).

(3) Les ententes prevues au paragraphe (2) et tous nouveaux programmes devront etre autorisee a la fois :
(a) par des résolutions du Sénat et de la Chambre des communes;
(b) par des résolutions des assemblées législatives d'au moins deux tiers des provinces dont la population confondue représente, selon le recensement général le plus récent à l'époque, au moins cinquante pour cent de la population de toutes les provinces..

(4) Le gouvernement du Canada fournit une juste compensation au gouvernement d'une province qui choisit de ne pas participer à un programme national financé ou cofinancé par le Gouvernement du Canada, dans les domaines permis au sens du paragraphe (1), si la province applique un programme ou une mesure compatible avec les objectifs nationaux.

(5) Le présent article doit être interprété conformément à l'article 36 de la Loi Constitutionnelle de 1982.

(6) Le paragraphe (1) ne devra pas être interprété comme ayant d'effet à l'égard du système de C.É.G.E.P. au Québec.

Devlin Clears It Up

Richard F. Devlin,
Visiting Professor

I would like to make two comments on the thoughtful article by Ms. Opalka, "Judge, But Don't Prejudge" (March 4, 1996). First, my comments at the Annie Macdonald Langstaff Workshop focused more on the decisions of the white judges and how their racialized experiences might undergird their conceptions of what might constitute a reasonable apprehension of bias. Second, I thought that I had emphasized on several occasions that perhaps one of the reasons Judge Sparks was subjected to a double standard of review was because of the intersection of gender and race. Indeed, I concluded my presentation with the following proposition: if the Supreme Court refuses to reverse the Court of Appeal then, on a symbolic level, the case suggests that while modest efforts might be made to diversify the image of the judiciary, the bottom line will remain that Black female judges should be seen, but not heard.

Court of Arbitration for Sports

Richard W. Pound, Q.C.

The arbitration which will be held in the McGill Moot Court Room on March 15, 1996 involves a question arising out of the application of the Olympic Charter as it relates to the issue of nationality of competitors eligible to compete in de Olympic Games.

Both the United States of Amnerica and Puerto Rico have National Olympic Committees recognized by the International Olympic Committee and, as such, are entitled to enter competitors who are "nationals" in the Olympic Games.

The dispute arises in the context of a Puerto Rican who wishes to play baseball for the U.S. Olympic team. This is acceptable to the U S., but not to Puerto Rico, which believes that the player is a Puerto Rican national and must, therefore, play for Puerto Rico. The U.S. position is that the player is also a U.S. citizen and should have the right to choose for which team he wishes to play.

There are some collateral issues, such as de effect of a "contract" signed on behalf of the player by his mother, while he was still a minor, agreeing to play for Puerto Rico. The question goes both to the effect of such a contract and, if valid, the duration of the contract.

It should prove to be quite interesting. The arbitrator chosen by the U.S. is a French advocate in Paris; the Puerto Ricans have named a lawyer from Ecuador; and I am the Chair, chosen by the other two.

Students are welcome to attend.

CASA? CFS? FEUQ? McGill and Student Lobbying

Mitch Costom, VP External LSA
Andrea Stairs, VP External SSMU

It seems that with each set of elections for the Students' Society of McGill University (SSMU), there is a referendum or plebiscite question dealing with the membership in or policies of a provincial or national student federation. Last semester, students were asked whether or not they supported the CASA Real Choices campaign. Though the campaign was accepted, the large amount of "no opinion" responses at the Chancellor Day Hall polling station indicates that students in our faculty are uninformed about one of the ways that their $80 annual contribution to SSMU is being spent.

Provincial - SSMU is currently not a member of FEUQ (Federation des Etudiants Universitaires du Quebec) or any other provincial coalition of students. McGill withdrew support from FEUQ last spring after the organization took a pro-sovereignist stance at a government commission. McGill students do participate in student lobbying efforts on an event-by-event basis. For example, SSMU is actively contributing to États Généraux, the government's commission to re-examine the education system through "grounds-up" consultation . McGill also had a strong delegation at the February 7th Day of Action. The march and rally on that day was coordinated by a coalition of twenty three CEGEP and University student associations in the Montreal area. It aimed to make a united statement against drastic raises to tuition, and to increase awareness of government cuts to education.

National - The two major student coalitions at the National level are the Canadian Federation of Students (CFS) and the Canadian Alliance of Student Associations (CASA). The SSMU is currently a member of CASA, which collectively represents approximately 200,000 students from twelve campuses ranging geographically from the University of Alberta to the University of New Brunswick. SSMU fees for 1995-96 were $13,500, or approximately 81 cents per student. The efforts of CASA this year have included:

- Participation in the National Advisory Group on Student Financial Aid, to ensure that a new grants program for women doctoral students remain need-based as opposed to an "excellence" grant;
- The development of a formula for a Student Cost of Living Index for the Department of Human Resources Development, to which loan limits will be indexed;
- Meetings between CASA's national director and close to two dozen MPs, to get across CASA's message of the need for rationalization and innovation to reduce the costs of the system and hence reduce upward pressure on tuition.

CASA has also had a number of internal problems this year. These have included a medical leave of absence by the National Director, who has now returned, and the firing of the Interim Director due to allegations of misappropriation of funds and fraud.

The SSMU elections, to be held March 13-15 , will contain an SSMU Council initiated plebiscite question asking students to mandate SSMU to continue to be a member of CASA.

For more information concerning any of these organizations and their activities, contact Mitch Costom @ 398-6966 or Andrea Stairs @ 398-6798.

JUST A REMINDER:

Submissions to the Quid Novi should be on 3.5 inch diskettes or through e-mail. Our address is Quid@lsa.lan.mcgill.ca. Please write your articles in either one of these two formats: Wordperfect 5.1 or Microsoft Word 6.0. Don't send them in Wordperfect 6.0 or in Macintosh format.
Vos diskettes seront laissées dans la boite du Quid Novi dans le LSA. Vous pouvez les ramasser lundi ou mardi.
Also, Quid Novi Elections are coming soon. More information will be given in the following days. Si quelqu'un serait interessé à être membre de l'exécutif du Quid l'année prochaine et désire plus d'information, parlez à Emmanuel Castiel ou envoyez un e-mail au Quid.